

AMENDED IN SENATE MAY 28, 2013

AMENDED IN SENATE MAY 7, 2013

AMENDED IN SENATE APRIL 24, 2013

AMENDED IN SENATE MARCH 21, 2013

SENATE BILL

No. 39

Introduced by Senators De León and Steinberg

(Coauthors: Senators Beall, Block, Calderon, Corbett, DeSaulnier, Evans, Galgiani, Hancock, Hernandez, Hill, Hueso, Jackson, Lara, Leno, Lieu, Liu, Negrete McLeod, Padilla, Pavley, Price, Roth, Rubio, Torres, Vargas, Wolk, and Yee)

(Coauthors: Assembly Members *Hagman and Skinner and Torres*)

December 5, 2012

An act to add Chapter 5 (commencing with Section 26230) to Division 16.3 of the Public Resources Code, relating to energy.

LEGISLATIVE COUNSEL'S DIGEST

SB 39, as amended, De León. Energy: school facilities: energy efficiency upgrade projects.

The California Clean Energy Jobs Act, an initiative measure enacted by voters *as Proposition 39* at the November 6, 2012, statewide general election, establishes the Clean Energy Job Creation Fund and requires moneys in the fund to be available for appropriation during specified fiscal years for, among other things, the purposes of funding energy efficiency projects in school facilities.

This bill would enact the Clean Energy Employment and Student Advancement Act of 2013 and would require the Office of Public School Construction, in ~~consultation~~ *coordination* with the State Energy Resources Conservation and Development Commission, ~~the Public~~

~~Utilities Commission, and the State Department of Education, to establish a school district assistance program to distribute grants, on a competitive basis, to develop the Clean Energy Employment and Student Advancement Program to award grants, based on the average daily attendance, to a school district, weighted as specified, for energy efficiency upgrade projects pursuant to the California Clean Energy Jobs Act. The bill would require the office, upon the approval of the State Allocation Board, to award a school district grants for energy efficiency upgrade projects meeting specified conditions commission to develop criteria for project development, approval, and energy savings reporting. The bill would require the office to develop a methodology to give priority points to applications meeting specified criteria commission to establish a technical assistance grant program to assist in the assessment, development, and implementation of energy upgrade projects for school districts and charter schools without access to a utility-sponsored technical assistance program. The bill would require the commission, in coordination with the University of California energy research centers, to develop innovative facility evaluation systems to assist school districts with facility evaluations, benchmarking, scoping, and investigation. The bill would authorize the commission, in consultation with the California Conservation Corps and the certified community conservation corps, to provide preaudit, audit, and postinstallation verification services to assist school districts. The bill would require the commission to develop guidelines for a financing program for projects for which grants are inappropriate or not needed for implementation. The bill would require the commission to develop a database to quantify the costs and benefits of funded projects. The bill would require a school district or a charter school facility receiving moneys from the Clean Energy Job Creation Fund to repay those moneys under specified conditions. For the 2013–14 fiscal year, the bill would provide that moneys from the fund, upon appropriation by the Legislature, would be available to fund energy efficiency projects that are on the Emergency Repair Program unfunded approval list as of January 1, 2013.~~

~~This bill would state the intent of the Legislature to appropriate moneys to the Office of Public School Construction from the fund for the purposes of awarding energy efficiency grants to the most disadvantaged schools in need of modernization for the purposes of energy efficiency upgrades.~~

This bill would specify the bidding requirements for contracts for projects that are funded, in whole or in part, by moneys from the Clean Energy Job Creation Fund and would require contractors for those contracts to meet specified requirements. The bill would require, with specified exceptions, the Department of Industrial Relations to monitor and enforce applicable prevailing wage requirements and would authorize the Director of Industrial Relations to charge the contracting agency for its reasonable and directly related costs incurred.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. ~~(a)~~—The Legislature finds and declares all of the
2 following:
3 ~~(1)~~
4 (a) The people of the State of California voiced their strong
5 support for the California Clean Energy Jobs Act by enacting
6 Proposition 39 at the November 6, 2012, statewide general election.
7 The voters closed an egregious corporate tax loophole that only
8 benefited out-of-state companies at the expense of expanded
9 employment in our state.
10 ~~(2)~~
11 (b) It is the duty of the Legislature to put these dollars to work
12 in a manner that voters can see and experience the benefit of *that*
13 *work*. Proposition 39 enumerated the following key principles in
14 guiding the expenditure of the revenues raised through the
15 California Clean Energy Jobs Act (Division 16.3 (commencing
16 with Section 26200) of the Public Resources Code):
17 ~~(A)~~
18 (1) Maximize job creation.
19 ~~(B)~~
20 (2) Shrink our carbon footprint.
21 ~~(C)~~
22 (3) Minimize bureaucratic costs.
23 ~~(D)~~
24 (4) Create full transparency.
25 ~~(E)~~
26 (5) Demand rigorous accountability.
27 ~~(F)~~

1 (6) Create measurable results.

2 ~~(3)~~

3 (c) Since the recession began in late 2007, California has lost
4 nearly 1.4 million jobs, including 400,000 in the construction
5 industry alone. Investing in energy efficiency will maximize job
6 creation and will help the state regain a sense of economic security
7 and sustainability at a time when unemployment remains high.
8 The state can further stimulate its economy by putting the industry
9 segment back to work that is most in need—the construction trades.

10 ~~(4)~~

11 (d) Studies show the continuing high cost of energy and utilities
12 due to inefficient lighting, insulation, heating, ventilation, and air
13 conditioning systems, plumbing, windows, and irrigation systems
14 that take local money away from educational programs. For
15 example, the Los Angeles Unified School District spends
16 \$105,000,000 annually on energy. Energy efficiency improvements
17 for public schools will reduce long-term energy costs and the
18 savings can be directed to the classroom.

19 ~~(5)~~

20 (e) Substandard physical environments are strongly associated
21 with truancy and other behavior problems in pupils. Lower pupil
22 attendance leads to lower scores on standardized tests in English
23 language arts and mathematics. Schools with better building
24 conditions have up to 14 percent lower pupil suspension rates.
25 Improving a school's health and safety standards can lead to a
26 36-point increase in California Academic Performance Index
27 scores.

28 ~~(6)~~

29 (f) Several studies have determined that children suffer
30 significant health consequences from excessive heat, inadequate
31 heating, ventilation, and air conditioning systems, mold and other
32 biological hazards, pest infestations, lead and other toxic hazards,
33 and overcrowding beyond the stated capacity of the school
34 structure. Research repeatedly shows the detrimental impact to the
35 health of pupils due to poor indoor air quality in classrooms.
36 Increasing energy efficiency will reduce air pollution that causes
37 asthma and lung disease.

38 ~~(7)~~

39 (g) Economically disadvantaged school communities are often
40 the same areas that suffer most from high unemployment and

destructive or unlawful conduct by youth. The program funded by revenues generated by the California Clean Energy Jobs Act will encourage community participation in, and a greater sense of responsibility toward, educational, environmental, and fiscal benefits of modernizing facilities, which will enhance community pride and sustain neighborhood vitality.

(b)

(h) It is the intent of the Legislature that:

(1) ~~First priority~~ Priority for funds made available through the California Clean Energy Jobs Act should be to award competitive grants statewide to economically disadvantaged schools to provide operational cost savings in schools maintaining kindergarten or any of grades 1 to 12, inclusive, and create a healthy indoor environment for pupils and staff and to offer technical assistance to all applicants and potential applicants for grant preparation to encourage full participation in the grant program.

(2) *To achieve the job creation and energy savings goals outlined in the California Clean Energy Jobs Act, first year funds should be distributed to schools with identified energy savings projects on the unfunded Emergency Repair List resulting from the settlement reached in Williams v. State of California (Case Number CGC-00-312236 of the Superior Court of San Francisco) and should allow retrofit projects to begin immediately while the state defines the competitive grant process that will be used to distribute funds in the subsequent years.*

(2)

(3) Energy efficiency upgrade projects *and deployment of onsite clean energy installations* should also provide short-term benefits, including the creation of jobs that pay prevailing wages in communities around the state, and stimulate local economies.

~~(3) In addition to grants for economically disadvantaged schools, to the extent funds are available, funds could be allocated to finance or provide matching funds for cost-effective energy efficiency upgrades and clean energy projects at schools maintaining kindergarten or any of grades 1 to 12, inclusive, and for projects at community colleges or at the campuses of the University of California or the California State University.~~

~~(4) Workforce training programs, including the California Conservation Corps, certified community conservation corps, YouthBuild, and other existing programs to train and employ~~

1 disadvantaged youth, veterans, and others on energy efficiency
2 and clean energy projects could also be funded.

3 ~~SEC. 2. It is the intent of the Legislature to make moneys~~
4 ~~available to the Office of Public School Construction, upon~~
5 ~~appropriation, from the Clean Energy Job Creation Fund to award~~
6 ~~energy efficiency upgrade grants to the most disadvantaged schools~~
7 ~~in need of modernization for the purposes of energy efficiency~~
8 ~~upgrades pursuant to the California Clean Energy Jobs Act~~
9 ~~(Division 16.3 (commencing with Section 26200) of the Public~~
10 ~~Resources Code).~~

11 ~~SEC. 3.~~

12 ~~SEC. 2.~~ Chapter 5 (commencing with Section 26230) is added
13 to Division 16.3 of the Public Resources Code, to read:

14
15 CHAPTER 5. CLEAN ENERGY EMPLOYMENT AND STUDENT
16 ADVANCEMENT ACT OF 2013

17
18 *Article 1. General Provision and Definitions*

19
20 26230. This chapter shall be known, and may be cited, as the
21 Clean Energy Employment and Student Advancement Act of 2013.

22 26231. As used in this chapter, the following terms shall have
23 the following meanings:

24 (a) *“Best value” means a value determined by evaluation of*
25 *proposals with reference to specified criteria objectively applied,*
26 *including, but not limited to, price, quality of technical proposals,*
27 *qualifications of key personnel, and other criteria deemed*
28 *appropriate by a contracting agency awarding a contract for a*
29 *project funded, in whole or in part, by a grant awarded pursuant*
30 *to this chapter.*

31 (a)

32 (b) *“Commission” means the State Energy Resources*
33 *Conservation and Development Commission.*

34 (c) *“Department” means the State Department of Education.*

35 (b)

36 (d) (1) *“Energy efficiency upgrade project” or “project” means*
37 *a school facility project that reduces energy consumption and*
38 *operational costs through means that include, but are not limited*
39 *to, improvements to one or a combination of the following:*

40 (1)

(A) Ventilation.

~~(2)~~

(B) Lighting and other system controls.

~~(3)~~

(C) Air infiltration.

~~(4)~~

(D) Water use.

~~(5)~~

(E) Windows and doors (fenestration).

~~(6)~~

(F) Heating and cooling (HVAC).

~~(7)~~

(G) Electrical system.

~~(8)~~

(H) Insulation.

(I) *Roof system, such as insulation and energy efficient rooftop surfaces.*

(J) *Energy monitoring and management system.*

(K) *Green infrastructure projects that reduce energy demand, such as tree planting.*

(2) *“Project” includes energy efficiency retrofit, clean energy installation, demand management, and other energy-related projects.*

(e) *“ESCO” means an energy service or energy savings company.*

(f) *“Loading order” means the state’s loading order described in the Energy Plan II jointly adopted by the commission and the Public Utilities Commission.*

~~(e)~~

(g) *“Office” means the Office of Public School Construction.*

~~(d) “School district” means a school district or a county office of education.~~

~~26232. (a) The office shall, in consultation with the commission, the Public Utilities Commission, and the State Department of Education, establish a school district assistance program to distribute grants, on a competitive basis, prioritizing economically disadvantaged school communities for energy efficiency upgrade projects that offer the highest energy efficiency savings, pursuant to this division.~~

~~(b) The commission shall develop criteria for project development, ranking, approval, and energy savings reporting, and shall establish guidelines and criteria for all of the following:~~

- ~~(1) Energy audit standards and procedures.~~
- ~~(2) Measurement and verification standards.~~
- ~~(3) Reporting standards.~~
- ~~(4) Project approval criteria relating to energy efficiency upgrade projects.~~
- ~~(5) Project priorities relative to energy standards.~~

~~(e) The office shall administer, process, and distribute funds to local educational agencies that meet the conditions pursuant to Section 26234, rank priority for these funds on the basis of criteria pursuant to Section 26235, and perform expenditure audits, as specified in subdivision (d) of Section 26234.~~

26232. For 2013–14 fiscal year, the office shall, to the extent moneys are available, fund all energy efficiency projects that have been previously approved by the State Allocation Board under the Emergency Repair Program pursuant to Article 1.5 (commencing with Section 17592.70) of Chapter 5 of Part 10.5 of Division 1 of Title 1 of the Education Code, and placed on the Emergency Repair Program unfunded approval list as of January 1, 2013. In order to later quantify the costs and benefits of funded projects, the school district shall authorize its local electric and gas utilities to provide 12 months of past and ongoing usage and billing records at the school facility site level to the commission.

26232.5. (a) The Legislature finds and declares that the funds generated pursuant to this division are public funds for the purposes of the Government Code, Labor Code, and Public Contract Code.

(b) A project funded, in whole or in part, pursuant to this division constitutes a public works project.

26233. (a) For a project funded, in whole or in part, pursuant to this division, the governmental entity receiving the funding shall ensure full compliance with Section 20111.6 of the Public Contract Code and shall additionally require contractors and subcontractors for the project to demonstrate a sustained commitment, contribution, and investment in all of the following:

(1) A state-approved local training program for sustaining the stability and longevity of a properly trained workforce for the 21st century construction industry, including, but not limited to, Title

1 24 energy efficiency curriculum, hands-on training, safety training,
2 and continuing education programs.

3 (2) A federally recognized multiemployer health care program
4 for their workers or, alternatively, health care coverage products
5 that are approved by the Department of Managed Care or the
6 Department of Insurance that provide essential health benefits
7 coverage required by the federal Patient Protection and Affordable
8 Care Act (Public Law 111-148) and California law.

9 (3) A federally recognized multiemployer pension program or
10 federally approved worker pension programs or plans.

11 (b) (1) Except as provided in subdivision (c), the Department
12 of Industrial Relations shall monitor and enforce compliance with
13 applicable prevailing wage requirements for a public works
14 project, within the meaning of subdivision (b) of Section 1720 of
15 the Labor Code, that is financed, in whole or in part, pursuant to
16 this division. Monitoring and enforcement by the department shall
17 be conducted pursuant to subdivision (g) of Section 1771.5 of the
18 Labor Code and regulations adopted pursuant to that provision.

19 (2) The Director of Industrial Relations shall charge each
20 contracting agency for the reasonable and directly related costs
21 of monitoring and enforcing compliance with the prevailing wage
22 requirements on each project.

23 (A) The reasonable and directly related costs of monitoring and
24 enforcing compliance with the prevailing wage requirements on
25 a project incurred by the Department of Industrial Relations in
26 accordance with this section are payable by the contracting agency
27 as a cost of construction and shall be determined pursuant to
28 paragraph (1) of subdivision (h) of Section 1771.5 of Labor Code.

29 (B) All amounts collected by the Department of Industrial
30 Relations for its services pursuant to this section shall be deposited
31 in the State Public Works Enforcement Fund created by Section
32 1771.3 of the Labor Code.

33 (c) Subdivision (b) does not apply if the government entity
34 receiving funding pursuant to this division does either of the
35 following:

36 (1) If the contracting agency had initiated prior to January 1,
37 2012, a labor compliance program approved by the Department
38 of Industrial Relations for some or all of its public works projects
39 and had not contracted with a third party to conduct that program,
40 and requests and receives approval from the department to

1 *continue to operate its existing labor compliance program for its*
2 *public works projects financed, in whole or in part, pursuant to*
3 *this division, in place of the department monitoring and enforcing*
4 *compliance on projects pursuant to subdivision (a).*

5 *(2) If the contracting agency has entered into a collective*
6 *bargaining agreement that binds all of the contractors performing*
7 *work on the project and that includes a mechanism for resolving*
8 *disputes about the payment of wages.*

9 *(d) In awarding contracts for projects funded pursuant to this*
10 *division, school districts and charter schools shall utilize the best*
11 *value competitive bid process that allows local contractors to bid*
12 *for these projects. Projects funded pursuant to this division shall*
13 *not be awarded using the procurement methods specified in either*
14 *Section 4217.12 of the Government Code or Section 17406 of the*
15 *Education Code.*

16 *26233.1. To provide work opportunities and a career path for*
17 *the next generation of energy efficiency tradespeople, all*
18 *contractors and subcontractors bidding on contracts to perform*
19 *work for a project funded, in whole or in part, pursuant to this*
20 *division shall have an agreement with a registered apprenticeship*
21 *program, approved by the California Apprenticeship Council, that*
22 *provides specific training for the work to be performed, and that*
23 *has graduated a minimum of 50 percent of the apprentices of the*
24 *program in the preceding five years. The agreement shall specify*
25 *that the contractor agrees to train apprentices to the standards of*
26 *the registered apprenticeship program.*

27 *26233.2. In awarding a contract for a project that is funded,*
28 *in whole or in part, pursuant to this division, the contracting*
29 *agency shall do all of the following:*

30 *(a) Award contracts utilizing the best value bid method.*

31 *(b) (1) Include factors including, but not limited to, price,*
32 *life-cycle costs, net energy savings, safety record, and other criteria*
33 *deemed appropriate by the contracting agency.*

34 *(2) For purposes of this subdivision, a bidder's safety record*
35 *shall be deemed acceptable if its experience modification rate for*
36 *the most recent three-year period is an average of 1.00 or less,*
37 *and its average total recordable injury or illness rate and average*
38 *lost work rate for the most recent three-year period does not exceed*
39 *the applicable statistical standards for its business category, or if*

1 *the bidder is a party to an alternative dispute resolution system*
2 *as provided for in Section 3201.5 of the Labor Code.*

3 *(c) (1) Prepare a request for proposal setting forth the scope*
4 *of the project that may include, but is not limited to, the size, type,*
5 *and desired design character of the buildings and site, performance*
6 *specifications covering the quality of materials, equipment, and*
7 *workmanship, preliminary plans or building layouts, or any other*
8 *information deemed necessary to describe adequately the*
9 *contracting agency's needs.*

10 *(2) The request for proposal shall do all of the following:*

11 *(A) Identify the basic scope and needs of the project or contract,*
12 *the expected cost range, and other information deemed necessary*
13 *by the contracting agency to inform interested parties of the*
14 *contracting opportunity.*

15 *(B) Invite interested parties to submit competitive sealed*
16 *proposals in the manner prescribed by the contracting agency.*

17 *(C) Include a section identifying and describing the following:*

18 *(i) All significant factors and subfactors that the contracting*
19 *agency reasonably expects to consider in evaluating proposals,*
20 *including cost or price and all nonprice related factors and*
21 *subfactors.*

22 *(ii) The methodology and rating or weighting scheme that will*
23 *be used by the contracting agency in evaluating competitive*
24 *proposals and specifically whether proposals will be rated*
25 *according to numeric or qualitative values.*

26 *(iii) The relative importance or weight assigned to each of the*
27 *factors identified in the request for proposal.*

28 *(iv) As an alternative to clause (iii), the contracting agency*
29 *shall specifically disclose whether all evaluation factors other*
30 *than cost or price, when combined, are any of the following:*

31 *(I) Significantly more important than cost or price.*

32 *(II) Approximately equal in importance to cost or price.*

33 *(III) Significantly less important than cost or price.*

34 *(v) If the contracting agency wishes to reserve the right to hold*
35 *discussions or negotiations with responsive bidders, it shall so*
36 *specify in the request for proposal and shall publish separately or*
37 *incorporate into the request for proposal applicable rules and*
38 *procedures to be observed by the contracting agency to ensure*
39 *that any discussions or negotiations are conducted in a fair and*
40 *impartial manner.*

1 (d) *Establish a procedure to prequalify contractors, including*
2 *general contractors and all electrical, mechanical, and plumbing*
3 *contractors, regardless of whether they bid as subcontractors or*
4 *as prime contractors, using a standard questionnaire that includes,*
5 *at a minimum, the issues covered by the standardized questionnaire*
6 *and model guidelines for rating bidders developed by the*
7 *Department of Industrial Relations.*

8 26233.3. *Notwithstanding any provision of the Public Contract*
9 *Code, upon issuance of a contract award for a project funded, in*
10 *whole or in part, pursuant to this division, the contracting agency*
11 *shall publicly announce its award, identifying the contractor to*
12 *whom the award is made, the winning contractor's price proposal,*
13 *and its overall combined rating on the request for proposal*
14 *evaluation factors. The notice of award shall also include the*
15 *agency's ranking in relation to all other responsive bidders and*
16 *their respective price proposals and a summary of the contracting*
17 *agency's rationale for the contract award.*

18
19 Article 2. *Elementary and Postsecondary Education*
20

21 26235. (a) *The office, in coordination with the commission,*
22 *shall develop and administer the Clean Energy Employment and*
23 *Student Advancement Program to award grants to school districts*
24 *and charter school facilities from moneys appropriated by the*
25 *Legislature from the Job Creation Fund for the purposes of*
26 *subdivision (a) of Section 26205.*

27 (b) *A school district or a charter school may submit to the office*
28 *an application for a grant pursuant to this article. The application*
29 *shall include a complete energy audit for the facility for which the*
30 *application is submitted.*

31 (c) *A school district shall be eligible to compete for funding up*
32 *to a maximum allocation level for each county based on the*
33 *average daily attendance formula, weighted toward the school*
34 *district's eligibility under Title I of the federal Elementary and*
35 *Secondary Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.).*

36 (d) *Upon approval of an application, the office shall submit to*
37 *the State Allocation Board the application for review pursuant to*
38 *Chapter 12.5 (commencing with Section 17070.10) of Part 10 of*
39 *Division 1 of Title 1 of the Education Code. The office shall award*

1 *the grant to the school district upon the approval of the State*
2 *Allocation Board.*

3 *(e) Prior to funding allocation for onsite clean energy*
4 *installation, a school district or charter school shall demonstrate*
5 *that energy cost savings over 75 percent of the expected life of the*
6 *onsite clean energy installation is greater than the total costs of*
7 *the installation.*

8 ~~26233. (a)~~

9 ~~26236. The State Department of Education department, in~~
10 ~~consultation with the office, shall do all of the of the following:~~

11 ~~(1)~~

12 ~~(a) Offer technical assistance to all applicants and potential~~
13 ~~applicants for grant preparation to encourage full participation in~~
14 ~~the grant program.~~

15 ~~(2)~~

16 ~~(b) Implement outreach and marketing strategies for the~~
17 ~~program.~~

18 ~~(3)~~

19 ~~(c) Analyze participation to inform and modify outreach and~~
20 ~~marketing efforts.~~

21 ~~(b) The office shall use existing benchmarking tools to determine~~
22 ~~present average energy consumption for a school facility by size~~
23 ~~and type.~~

24 ~~26234. Upon approval by the State Allocation Board, the office~~
25 ~~shall award to a school district a grant pursuant to this chapter only~~
26 ~~for an energy efficiency upgrade project that meets all of the~~
27 ~~following conditions:~~

28 ~~(a) The proposed project meets the qualifications of an energy~~
29 ~~efficiency upgrade project.~~

30 ~~(b) The school district complies with the required labor~~
31 ~~compliance and contractor qualification standards.~~

32 ~~(c) The amount of the grant applied for, together with any~~
33 ~~matching contribution, will meet all of the costs of implementing~~
34 ~~the energy efficiency upgrade project.~~

35 ~~(d) The school district allows the office to audit all expenditures~~
36 ~~made with grant funds.~~

37 ~~(e) The school district agrees to track and report to the office~~
38 ~~the number of jobs created as a result of the energy efficiency~~
39 ~~upgrade project.~~

1 (f) ~~The school district reports to the office the operational cost~~
2 ~~savings resulting from the energy efficiency upgrade project, both~~
3 ~~at the district level, in aggregate, and school facility site level.~~

4 26235. ~~In evaluating and ranking applications for grants that~~
5 ~~meet the conditions pursuant to Section 26234, the office shall~~
6 ~~develop a methodology to assign priority points to an application~~
7 ~~that meets all of the following criteria:~~

8 (a) ~~The energy efficiency upgrade project is located at a school~~
9 ~~facility with an above average energy consumption, as determined~~
10 ~~by the benchmark pursuant to subdivision (b) of Section 26233.~~

11 (b) ~~The energy efficiency upgrade project is located in an~~
12 ~~economically disadvantaged school community, based on the~~
13 ~~percentage of pupils eligible for the federal free and reduced-price~~
14 ~~lunch program.~~

15 (c) ~~The energy efficiency project is located in an area with an~~
16 ~~above average unemployment rate as compared to the statewide~~
17 ~~unemployment rate.~~

18 (d) ~~Pupils and classified school employees receive training and~~
19 ~~information to better understand how they can support and~~
20 ~~maximize the achievement of energy efficiency savings envisioned~~
21 ~~by the energy efficiency upgrade projects.~~

22 (e) ~~The energy efficiency upgrade project will enhance~~
23 ~~workforce development and employment opportunities, utilize~~
24 ~~members of the California Conservation Corps or certified local~~
25 ~~conservation corps, if available, or accommodate learning~~
26 ~~opportunities for school pupils or at-risk youth in the community.~~

27 (f) ~~The energy efficiency upgrade project is a joint partnership~~
28 ~~between two or more agencies, including, but not limited to, other~~
29 ~~school districts, nonprofit organizations, and local government~~
30 ~~agencies to maximize the investment and benefit to the public.~~

31 26237. (a) *On or before _____, 2014, the commission shall*
32 *develop guidelines and criteria for project development, approval,*
33 *and energy savings reporting, consistent with Section 26206, that*
34 *include all of the following:*

35 (1) *Energy audit standards and procedures.*

36 (2) *Evaluation, measurement, and verification standards.*

37 (3) *Inventory and reporting standards.*

38 (4) *Project approval criteria.*

39 (5) *Project eligibility and ranking based on the loading order.*

1 (b) (1) *The commission shall adopt the guidelines at a publicly*
2 *noticed meeting and provide an opportunity for the public to*
3 *comment. The commission shall provide a written public notice of*
4 *the meeting at least 30 days prior to the meeting.*

5 (2) *For substantive revision of the guidelines, the commission*
6 *shall provide a written notice of the meeting at least 15 days prior*
7 *to the meeting at which the revision is to be considered or adopted.*

8 (3) *The adoption or revision of the guidelines is exempt from*
9 *the requirements of Chapter 3.5 (commencing with Section 11340)*
10 *of Part 1 of Division 3 of Title 2 of the Government Code.*

11 (c) *In developing the criteria for project eligibility and ranking,*
12 *the commission, in coordination with the office, shall base the*
13 *prioritization of projects on all of the following:*

14 (1) *Eligibility of the school district in which the project is*
15 *located under Title I of the federal Elementary and Secondary*
16 *Education Act of 1965 (20 U.S.C. Sec. 6301 et seq.), determined*
17 *as a percentage of pupils eligible for Title I funding.*

18 (2) *The amount of energy savings resulting from the project,*
19 *such as measurements of kilowatts per hour saved.*

20 (3) *The ability of the school district or charter school to enter*
21 *into contracts implementing the project within 90 days of grant*
22 *award.*

23 (4) *The ability of the school district or charter school to leverage*
24 *moneys or resources, including grants or financing from local,*
25 *private, and other public and ratepayer funds, including funds*
26 *from participating in a utility energy program; or to partner with*
27 *two or more entities, including, but not limited to, other school*
28 *districts, nonprofit organizations, local government agencies,*
29 *ESCOs, and others; or both leveraging and partnership to*
30 *maximize investments and benefits to the public.*

31 (5) *The geographic locale of the school site in reference to the*
32 *ranking of its Zip Code pursuant to Section 39711 of the Health*
33 *and Safety Code, with the most impacted receiving the highest*
34 *priority and the least impacted receiving the lowest priority.*

35 (6) *The ability of the project to enhance workforce development*
36 *and employment opportunities, utilize members of the California*
37 *Conservation Corps, certified local conservation Corps,*
38 *YouthBuild, California community college districts, Green*
39 *Partnership Academies, Division of Apprenticeship Standards,*
40 *nonprofit organizations, state certified apprenticeship programs,*

1 *targeted hire provisions, labor management partnerships, high*
2 *school career technical academies, and high school regional*
3 *occupational programs, if available, or accommodate learning*
4 *opportunities for school pupils or at-risk youth in the community.*

5 26238. *The commission shall, in consultation with the*
6 *University of California energy research centers, develop*
7 *innovative facility evaluation systems to assist school districts and*
8 *charter schools with facility evaluations, benchmarking, scoping,*
9 *and investigation, including computer modeling, the use of the*
10 *United States Environmental Protection Agency Portfolio Manager,*
11 *and onsite surveys.*

12 26239. *The commission, in consultation with the California*
13 *Conservation Corps and certified community conservation corps,*
14 *may provide preaudit, audit, and postinstallation verification*
15 *services to assist school districts and charter schools.*

16 26239.5. *The commission may allow the use of data analytics*
17 *of energy usage data, where possible, in the energy auditing,*
18 *evaluation, inventorying, measuring, and verification of projects.*

19 26240. (a) *The commission, upon appropriation by the*
20 *Legislature, shall establish a technical assistance grant program*
21 *to assist with the assessment, development, and implementation*
22 *of projects for school districts and charter school without access*
23 *to utility-sponsored energy efficiency technical assistance.*

24 (b) *The commission shall establish guidelines for the technical*
25 *assistance programs, including eligible activities to be funded.*
26 *The commission shall, at a minimum, allow for the following*
27 *eligible activities:*

28 (1) *Needs assessment, benchmarking, scoping, and investigation,*
29 *including support for energy audits when other programs do not*
30 *exist.*

31 (2) *Project development.*

32 (3) *Bid preparation.*

33 (4) *Assistance with leveraging other public and private funds.*

34 (5) *Permit and citing support.*

35 (6) *Preparation of postproject energy measurement and*
36 *verification reports.*

37 (c) *For the purposes of assisting school districts and charter*
38 *schools, the commission may also provide grants for technical*
39 *assistance pursuant to this section to any of the following entities:*

40 (1) *Local governments.*

1 (2) *Renewable energy networks.*

2 (3) *County offices of education.*

3 (4) *Nonprofit organizations dedicated to provide energy project*
4 *development and implementation assistance.*

5 (d) *For appropriate school districts, the commission may*
6 *complement the requirements of this section through the Bright*
7 *Schools Program.*

8 26241. (a) *For projects for which grants are inappropriate*
9 *or not needed for implementation, the commission shall develop*
10 *a project financing program in the form of very low interest rate*
11 *loans. The commission shall use the program developed pursuant*
12 *to Chapter 5.2 (commencing with Section 25410) of Division 15*
13 *to administer the financing program pursuant to this section.*

14 (b) *The commission shall develop guidelines and criteria for*
15 *project development, approval, and energy savings reporting,*
16 *consistent with Section 26206, that include all of the following:*

17 (1) *Energy audit standards and procedures.*

18 (2) *Evaluation, measurement, and verification standards.*

19 (3) *Inventory and reporting standards.*

20 (4) *Project approval criteria.*

21 (5) *Project eligibility and ranking based on the loading order.*

22 (c) *The commission shall prioritize loans to schools with higher*
23 *eligibility under Title I of the federal Elementary and Secondary*
24 *Education Act of 1965 (20 U.S.C. Sec 6301 et seq.).*

25 (d) *The commission shall ensure the financing program*
26 *incentives participation by ESCOs, utilities, local governments,*
27 *and other entities in project development.*

28 26242. *Upon appropriation by the Legislature, the commission*
29 *shall, in coordination with the Treasurer's office, develop*
30 *additional financing tools that incentive the participation of private*
31 *capital investments in projects for schools with kindergarten or*
32 *grades 1 to 12, inclusive.*

33 26243. (a) *A school district receiving moneys pursuant to this*
34 *article for a project for a facility that is torn down for remodel,*
35 *or the property is deemed to be surplus and sold within 10 years*
36 *of project completion shall repay to the state all moneys received*
37 *from the Job Creation Fund for the project.*

38 (b) *For a charter school facility that is not publicly owned, a*
39 *school district receiving moneys pursuant to this article for a*
40 *project for that facility shall repay to the state all moneys received*

1 *from the Job Creation Fund for the project if the charter school*
2 *vacates the facility within five years of project completion.*

3 *(c) To quantify costs and benefits of projects, the commission*
4 *shall develop a database and methodology as follows:*

5 *(1) In accordance with a schedule established by the*
6 *commission, the school district or charter school will authorize*
7 *its local electric or gas utilities to provide to the commission the*
8 *12 months of past and ongoing usage and billing records at the*
9 *school facility site level.*

10 *(2) The commission shall compile the information provided by*
11 *the utilities into a database that will assist the commission in*
12 *quantifying the costs and benefits of implementing the projects*
13 *funded, in whole or in part, pursuant to this chapter. The*
14 *commission may, upon appropriation by the Legislature, expend*
15 *moneys from the Job Creation Fund for the purposes of developing*
16 *and maintaining the database.*

17 *(3) The commission shall compute the costs of energy saved as*
18 *a result of implementing the projects funded, in whole or in part,*
19 *pursuant to this chapter. The costs and savings shall be calculated*
20 *in a manner established by the commission.*